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Serbia and Montenegro

How much sovereignty? What kind of association?

ON 6 DECEMBER 2002, the joint Serbian and Montenegrin Constitutional Committee unanimously adopted a charter that is to serve as the constitution for a new union of the two republics. After many delays at every stage of the process, the charter has been ratified by Serbia, Montenegro, and the now-defunct Federal Republic of Yugoslavia and is being implemented. Even the assassination of the Serbian prime minister, Zoran Djindjić, on 12 March 2003 did not deflect the momentum towards the creation of the new state – much of which was due to his efforts to bring it about. ‘Serbia and Montenegro’ has thus replaced the Federal Republic of Yugoslavia, and the name ‘Yugoslavia’ will disappear from the maps of the world.

Its passing does not seem to occasion much regret on the part of people in either of the component parts of all that was left of the former Federal Socialist Republic of Yugoslavia. On the other hand, the new constitutional arrangement has not been greeted with any great enthusiasm – even among those who favour some kind of common state rather than a total break-up. When the agreement in principle to restructure constitutional relations between Serbia and Montenegro for a trial period of three years was reached in Belgrade on 14 March 2002, a local cartoon showed smiling international officials toasting each other while figures representing Serbia and Montenegro wept in a corner.

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While not all of the loose ends have been tied up (allocation of ambassadorships and other government jobs, for instance), the major points have been agreed – even the ‘harmonization’ of the economy and adoption of a single customs tariff regime. Many observers had doubted that agreement could be reached on these sensitive issues without months of haggling and repeated pressure from the European Union, for which they were the essential elements of the new arrangements. Compared to Canada, which took more than fifty years to work out much less fundamental constitutional changes, Serbs and Montenegrins might be said to have moved ahead with breathtaking speed. When still mired in settling the details and a good deal behind schedule, they greeted comments to this effect rather sourly.

Why should Canadians care about all this? The constitutional future of Yugoslavia is hardly a matter of direct interest to Canada, and its possible implications for regional stability in a volatile part of Europe touch us only at one remove. Even so, the demise of a federation that has existed in one form or another for almost sixty years and had some similarities with our own can hardly be a matter of complete indifference. Nor can some of the proposals for new constitutional arrangements, which could well be seen as attractive precedents by those seeking to destroy Canada as it now exists. Most of all, perhaps, the notion that it does not really matter whether a federation survives as long as the component bits can be members of the same multilateral international organizations is a dangerous one for Canada.

The Belgrade Agreement and the Constitutional Charter to which it gave birth almost nine months later were the products of unremitting pressure from the international community, in particular the European Union (EU). The world seemed finally to be tiring of the endless proliferation of small Balkan states, most of them of dubious economic viability and likely to demand (and need) large quantities of international assistance for reconstruction and development – or simply to keep afloat.

The EU had the trump card, and its high representative for foreign and security policy, the former secretary-general of the North Atlantic Treaty Organization (NATO), Javier Solana, had no hesitation in playing it. The EU was prepared to discuss eventual membership for a common state of Serbia and Montenegro, but not for the two of them separately.

Like all the other populations of central and eastern Europe, Serbs and Montenegrins see EU membership as the answer to all their problems,

without necessarily having a realistic notion of how long it will take or how difficult it will be to join. The insistence that they would have to form some kind of common state before they could even talk about accession to the EU obviously had considerable persuasive force. It has also given rise to some resentment on the part of those Montenegrins who favoured an immediate referendum on independence and do not appreciate what they see as an unnecessary obstacle put in the way of their ambitions by outsiders.

One of the international community's concerns is the effect that outright secession by Montenegro would have on regional stability. The Kosovo Albanians would be quick to argue that the further break-up of Yugoslavia made it even more far-fetched to consider that Kosovo is even notionally a part of it. Their demands for independence, on which the international community remains hesitant and is certainly not prepared to endorse immediately, would undoubtedly become more insistent and very possibly violent. Bosnian Serb nationalists have often seen a parallel between Kosovo's independence and their own. In Serbia itself there are pressures for greater autonomy in Vojvodina, South Serbia, with its Albanian majority, and the Sankjak of Novi Pazar, which could eventually turn Serbia into a federal state. In neighbouring Macedonia, the Slavs (who suspect their Albanian fellow citizens of wanting to federalize the country) would be horrified at any such development.

Montenegrin separatists dismiss such analogies as baseless (and at least mildly insulting). Unlike these other potential aspirants, Montenegro is a state and has been a state for hundreds of years. Its absorption into Royal Yugoslavia (1919-45) is passed over as a regrettable anomaly – anyway, many Montenegrins fought against it at the time. As always in the Balkans, there is a lot of history wrapped up in the contemporary issue of Montenegro's status – and not much agreement on exactly what that history is.

WHO ARE THE MONTENEGRINS?

What is now Montenegro, more or less, was the mediaeval kingdom of Zeta in the eleventh century. (The name was revived when Montenegro was annexed to Serbia as part of the original Yugoslavia and was included in a region called Zeta.) It was absorbed by the expanding Serbian mediaeval empire. As that began to fall apart, Montenegro regained its independence. With the defeat of Serbia's

armies by the invading forces of the Ottoman Empire, Montenegro became an island of resistance (just as, perhaps stretching a point, Montenegro became a major focus of opposition to the 1990s Milošević regime in Yugoslavia.)

In any case, it is a point of particular pride for Montenegrins (who are far from deficient in this attribute) that they were never – entirely – conquered by the Turks. They credit this, of course, to their own stubborn heroism. It may be that the invading Ottoman armies simply did not think the conquest of this sparsely populated, bleak, and barren mountain ('Crna Gora' or Black Mountain in Serbian, like 'Montenegro' in Italian) worth the trouble, as long as its native brigands more or less behaved themselves. When, from time to time they did not, raiding coastal areas and wreaking havoc upon the lowlanders, punitive operations were conducted, but the subjugation of all Montenegro to Ottoman rule was never seriously attempted.

Myth (always a serious matter in the Balkans) would have it that Serbian nobles unwilling to submit to Ottoman rule after the Battle of Kosovo Polje in 1389 fled to Montenegro. Whether or not they represented any serious force in Montenegro's affairs, then or later, it is certainly true that Montenegrins have for a long time been split between those who consider themselves Serbs (or even as the repository of everything that made the Serb nation great) and those who believe that Montenegrins are a distinct national group.

Some have even gone so far as to suggest that Montenegrins are not really Slavs at all, but rather Illyrians – a pre-Roman people who are more often claimed as ancestors by the Albanians. The languages are clearly different (Serbo-Croat is the language of Montenegro – unless they have changed its name to 'Montenegrin' as a point of nationalist pride. Albanian is not a Slav language), and one Montenegrin scholar asserts that the Slavic elements of the Montenegrin character and social structure are 'overwhelming.' He does, however, go on to admit that in terms of tradition, culture, and moral codes, 'Montenegrin ethnic and cultural identity correspond more to those of the neighbouring Albanian tribes than to those of the Serbs.'¹ Scholarly arguments of this kind about national origins are rife in the Balkans and can probably be ignored by non-ethnographers.

In any case, the two principalities were formally recognized as independent but definitely separate states at the Congress of Berlin in

¹ Srdja Pavlovic, 'The Podgorica assembly in 1918,' *Canadian Slavonic Papers* 41(June 1999), 158-9.

1878. To underline their separation, Austria-Hungary was authorized to garrison the Sanjak of Novi Pazar, which lay between them, to make sure that they did not have a common border.

Montenegrin nationalists will point out even now that, since the list of newly recognized states was declared in alphabetical order at the Congress, Montenegro was thus the first to achieve that status. In fact, both Montenegro and Serbia were treated as minor irritants in Berlin, not permitted to speak at the Congress, and generally found themselves at the mercy of the whims of the great powers. Both received some additional territory (Montenegro, in particular, gaining access to the Adriatic coast), but were to be subject to every impediment that Austria-Hungary could devise to prevent them from evading Austrian domination.

Serbia was Vienna's main concern. Like the Turks, the Austrians probably did not worry too much about Montenegro – even if it was a loyal and devoted ally to their chief great power antagonist, Russia. Montenegro may still be technically at war with Japan, having declared war in solidarity with Russia in 1905 but never actually having concluded a peace treaty.

It was Montenegro that first declared war on the Ottoman Empire in 1912 (the first Balkan War), although it was in no danger of doing so alone. In a sense, it was once again playing the role of 'the mouse that roared,' although King Nikola also had an impressive roster of family connections with European monarchs. Known as the 'father-in-law of Europe,' he counted the kings of Italy and Serbia and two Russian grand dukes among his sons-in-law.

A book recently published by the Ministry of Foreign Affairs of the Republic of Montenegro (even in former Yugoslavia, the constituent republics could have their own foreign ministries to deal with protocol matters and some aspects of relations with neighbouring countries) outlines in great detail the diplomatic status of the Kingdom of Montenegro after 1878 and the courtesies extended to its ruler. The Tsar of All the Russias, Nicholas II, for instance, met him personally at the Petersburg railway station. The point of this book is clearly to remind us that Montenegro was a full member of the international community and to suggest that it still is – or at least ought to be.

World War I saw Serbia and Montenegro, as allies, going down to defeat after initial successes against the Austrian forces. The Serbian king and his army retreated across Albania to the coast and were evacuated to

Corfu by the British navy. They were subsequently reintroduced onto the battlefield on the Salonika front.

The Montenegrins were not so fortunate. Their army having surrendered (apparently at the suggestion of the Serb military commander), the country was occupied by Austria until early 1918, and what was left of the Montenegrin army was dissolved.² King Nikola fled to Rome with his family and many members of his government. This can hardly have fit the Montenegrins' heroic self-image, and controversies after the war were about the question of allowing him to return almost as much as about abolishing the Kingdom of Montenegro to become part of the new Triune Kingdom of Serbs, Croats, and Slovenes (renamed Yugoslavia in 1929, when King Alexander dealt with incessant political crises by establishing a royal dictatorship).

Montenegrin nationalists insist that the Grand National Assembly, which proclaimed the 'annexation' of Montenegro to Serbia in 1919, was organized by the Serbian occupation authority set up the previous year. It was, they argue, police-controlled and unconstitutional. 'These decisions,' which included a ban on King Nikola's return, 'were illegal and in violation of the Constitution of the Kingdom of Montenegro, which was still valid and in effect.' To add insult to injury, 'the Montenegrin Autocephalous Orthodox Church was abolished in an uncanonical and illegal manner and its property transferred to the Serbian Orthodox Church.'³

It is perhaps not surprising that one of the present-day subjects of contention between the rival forces in Montenegro has been that of restoring the Montenegrin Orthodox Church – at the expense of its Serbian sister church, which has never had much patience with 'schismatics.' Now, as in 1919, Montenegrins are almost evenly split on the question of who they are and where they belong.

Those opposed to unification with Serbia then were not fighting against any kind of association with Serbia. What they wanted (as did the rebellious Croats) was something more like a federation in which they would have equal status with Serbia and would retain their historic identity. Now their more extreme contemporary followers insist on nothing less than independence and feel betrayed by then President (now Prime Minister) Milo Djukanović, who had promised a referendum on

² *Ibid*, 160.

³ 'How the Montenegrin State and Kingdom was Abolished in 1918,' Montenegrin Association of America, available at www.montenegro.org/abolish.html

independence but nonetheless accepted the Constitutional Charter. They want nothing to do with a common state, even for three years, despite assurances from Djukanović that it will pave the way to independence.

TITO'S YUGOSLAVIA AND ITS AFTERMATH

One of Tito's aims in setting up the 'new' Yugoslavia in 1945 was to redress the grievances of the non-Serbs against the previous regime. Serbia was to be, as the late Canadian prime minister, Louis St Laurent said of Quebec, 'a province [republic] like the others.' As far as many Serbs were concerned, its position was even worse. Macedonia had been taken out of Serbia altogether, and a Macedonian Orthodox Church was created by an atheist regime to emphasize a distinct Macedonian identity. Even worse, perhaps, Kosovo, along with Vojvodina, was given autonomous status within Serbia, which was, therefore, the only republic not to have control over all of its territory.

Montenegro was set up as a completely separate republic, with its capital in Titograd (formerly, and now once again, Podgorica). Even though it was the smallest of the Yugoslav republics, and one of the poorest with virtually no industry, it had been a full partner in the Partisan movement during the Second World War and had contributed more than its share to the Partisans' military success. This record, together with a traditional Montenegrin partiality for the profession of arms, meant that it was always well-represented in the officer corps of the Yugoslav National Army (JNA).

A Montenegrin, Milovan Djilas, was in Tito's inner circle and might have been a leading candidate to become Tito's successor. Being Montenegrin, however, he had a tendency to say what he thought – no matter what the consequences. One of the things he had come to think was that the Communist party of Yugoslavia and the whole regime had become corrupted by power, lost the ideals with which they had won support during the war, and now constituted what he called 'The New Class.' When he wrote editorials to this effect in the party newspaper, it was clear that his days in power were numbered, and he was duly expelled from the party and periodically jailed.

In general, Montenegro did fairly well in former Yugoslavia. When the old federation broke up, Montenegro was the only republic not to secede. On 27 April 1992, it joined Serbia in proclaiming a new Federal Republic of Yugoslavia (FRY) in which they would be the only

members. A referendum in Montenegro indicated substantial popular support for this renewed association.

Proponents of Montenegrin independence are not inspired by ethnic nationalism, but rather by a strong sense of their history as an independent state and total scepticism about the possibility of having their interests taken fully into account in such a lopsided union. They are not anti-Serb, although occasionally resentful at what they see as the patronizing attitude shown by even newly democratic Serbia towards its 'little brother.'

According to a no doubt apocryphal but plausible story, units of the Royal Montenegrin Army could not number off in the same way as other armies, where a soldier in a single line shouts 'one...two...one...two,' after which one group would be ordered to step forward. No Montenegrin soldier would admit to being number two. The same purpose was served with shouts of 'one...and me!...one...and me!' It is not entirely facetious to suggest that this sentiment is the driving force behind the Montenegrin independence movement.

THE MILOŠEVIĆ FACTOR

As part of his efforts to assure Serbia (and himself) a dominant position in Yugoslavia, Slobodan Milošević, the Serbian (later Yugoslav) president, engineered the collapse of governments in Kosovo, Vojvodina, and Montenegro in the so-called 'anti-bureaucratic revolution.' One of his techniques was to organize mass rallies (of as many as a million people), called 'Happenings of the People,' to rouse passions about the plight of Serbs in Kosovo and put pressure on incumbent politicians. He even tried to organize such a rally in Slovenia, but the authorities there simply turned the would-be demonstrators back at the border.

In Montenegro, the existing government yielded on 7 October 1988, to be replaced by a group of young Milošević loyalists headed by Momir Bulatović. He became president of Montenegro and consolidated his power by sweeping victories in the presidential and parliamentary elections of December 1990. An even younger reform communist, Milo Djukanović became prime minister in 1991 at the age of 29. Both seemed to be reliable supporters of Milošević, although Bulatović had to be bullied into changing his position in at least one international conference on the future of Yugoslavia to join Milošević in opposing the terms of a possible settlement, which he had initially accepted.

It is not entirely clear why Djukanović turned against Milošević and split with Bulatović, taking over what had been their common party in the process. One former Yugoslav official answered the question succinctly: 'Pure personal ambition.' Whatever the cause, Djukanović became a sworn enemy of Milošević and, perhaps more importantly, of his wife, Mirjana Marković. By the mid-1990s he was clearly disaffected, expressing support for student demonstrators in Belgrade in 1996-7 and voicing the opinion that Milošević was unfit to hold any political office in Yugoslavia. Bulatović remained a loyalist. When Djukanović narrowly defeated him (50.8 per cent to 49.2 per cent) in the second round of the Montenegrin presidential elections in October 1997 and Milošević was unable to prevent the inauguration of the new president, Bulatović became federal prime minister – to the outrage of Djukanović and his party, who insisted that they had the constitutional right to supply the prime minister.

There are few good losers in the Balkans, and Bulatović supporters attempted to stir up unrest over the Orthodox Christmas holidays (to which adherents of the two competing churches – Serbian and Montenegrin – contributed) and in the days before the presidential inauguration. There were suspicions that Milošević was instigating violence to provide an excuse to declare martial law and use the army to restore order, in effect cancelling the transfer of the presidency. The army – and, in particular, the chief of the general staff – would not cooperate in this scenario, and the inauguration took place on schedule.

As president, Djukanović pushed Montenegro almost as far as it could go towards independence without actually declaring it. He was very conscious of just how divisive an issue it was in Montenegro itself. He may have been concerned that Milošević would send in the army to prevent secession, despite public statements by the latter that Montenegrins were free to choose their own future.

In fact, military action against Montenegro always seemed unlikely, if only because it would be difficult to persuade Yugoslav soldiers that Montenegrins were their enemies. The Albanians in Kosovo and Croats and Bosnian Muslims were always more plausible targets for ethnic hatred; Montenegrins were brothers, even if they were only barely compatriots any longer.

Montenegro established the Deutschmark as its currency (creating a problem for Yugoslav soldiers garrisoned there, who were paid in dinars.) A separate low-tariff regime was established, and foreigners

were welcome to visit without bothering to get Yugoslav visas. In response, Milošević imposed what amounted to an embargo on trade with the recalcitrant republic.

Even more provocatively, the Djukanović government allowed publications banned in Serbia to be printed in Montenegro and smuggled across the border. Serbian opposition leaders could quietly take refuge in Montenegro when the need arose. Montenegrin participation in the war with NATO over Kosovo was nominal, and only a few Yugoslav Army installations there were bombed.

Given the feckless character of the opposition to Milošević in Serbia at the time, Montenegro under Djukanović was seen in the West as the most effective resistance force. There was a good deal of support, including financial support (the Deutschemark and, after it, the euro, could not have been adopted without it), and Djukanović was treated as if he were the head of an independent state when he visited Western capitals. No doubt he came rather to enjoy it.

The support, however, stopped short of endorsing Montenegrin independence. Djukanović himself was cautious about this possibility while Milošević was in power, and his friends in the international community encouraged him in this caution. The last thing anyone wanted was another Yugoslav war, with NATO somehow obliged to intervene to counter Serbian 'aggression' against Montenegro.

In August 1999, the government of Montenegro proposed a revision of its constitutional relations with Serbia in the form of a loose confederation. Otherwise a referendum on independence would be held. Milošević was supposedly willing to negotiate on these proposals, but, to no one's surprise, the spasmodic 'negotiations' made no progress.

In fact, Djukanović and the Montenegrin government had regarded the federal regime as illegal and unconstitutional ever since Milošević had introduced changes in the federal constitution. These eliminated Montenegro's right to select its own representatives in the federal House of Peoples or to be consulted about the appointment of the federal prime minister (who had to be a Montenegrin). This was the reason given for boycotting the 2000 election, despite the expectations of the opposition in Serbia (which had finally got its act together and supported a single candidate) and the urgings of the international community. Milošević was defeated anyway, but the Montenegrin boycott still rankled.

Djukanović was certainly against Milošević, and it was difficult to understand why he would not join in the election campaign to get rid

of him. Aside from the point of principle (non-recognition of the federal government), it turns out Djukanović does not consider the new and more democratic government to represent much improvement. The new federal president, Vojislav Koštunica, was a professed Serbian nationalist (as he still is), albeit a moderate one, and the 'illegal' constitutional changes introduced by Milošević remained in effect.

One of the ironic side-effects of the boycott of federal elections by Djukanović and his party is that all of the Montenegrin seats in the federal assembly went by default to the party led by his arch-rival, Momir Bulatović, which had remained steadfastly loyal to Milošević. It was nonetheless prepared to join the new democratic forces to make up a majority in the assembly. Its role was not entirely constructive. Apparently fearing that some Montenegrins might be indicted by the International Criminal Tribunal for Yugoslavia (ICTY) in connection with the bombardment of Dubrovnik, it has managed to obstruct federal legislation for co-operation with the ICTY.

That the governing party in Montenegro had no representation federally was a grievance. It was also a self-inflicted wound. Boycotts are a favourite protest technique of Balkan politicians who claim to be denying legitimacy to the process by abstaining from it. Those who indulge in such boycotts appear not to notice that the immediate result is that their opponents win. Boycotts of presidential elections are perhaps a partial exception, since (as happened both in Serbia and Montenegro late in 2002) they can succeed in invalidating the elections entirely if the voter turnout falls below fifty per cent.

WHAT ABOUT A NEW CONSTITUTION?

With this background, it is hardly surprising that the process of negotiating new constitutional arrangements has been slow and difficult. It has also been complicated by a series of political crises and machinations in both Serbia and Montenegro.

When Djukanović signed the Belgrade Agreement in March 2002, his coalition partner, the Liberal Alliance, left the government. To bring them into it and put together a majority in the Assembly, he promised a referendum on independence by May 2002. That he should agree to form a new common state with Serbia – even if Montenegro could opt out and hold a referendum after three years – was seen as a betrayal. The government fell, but Djukanović won a clear majority in the parliamentary elections that followed, which can certainly be taken as an endorsement of his policy.

His unprecedented and effective door-to-door campaign – in contrast to the lacklustre campaign of the pro-Yugoslav coalition – was a more important factor than any of the issues under discussion, and the election results can certainly not be taken as popular endorsement for independence. Djukanović himself has come out more and more openly in favour of separation, and some senior officials in his party accept the proposals for a new common state with Serbia only grudgingly – and probably only because they are convinced that it will never work. Ordinary Montenegrins are as split on the question as they have always been.

The preamble to the draft charter describes Serbia as including Kosovo, ‘currently under international administration.’⁴ It was greeted with predictable rage by Kosovo Albanians, who threatened to accelerate their drive to independence if the international community ‘recognized’ this formulation. Representatives of the international community made it clear that the final status of Kosovo was not to be decided simply by Serbia and Montenegro, and no one really tried to make an issue of it thereafter.

The draft ‘Constitutional Charter of the Union of Serbia and Montenegro’ (to be called simply ‘Serbia and Montenegro’) is to be based on the equality of the two member states. They are to ensure the unhindered functioning of their common market, and the new state ‘shall co-ordinate and harmonize the economic systems together with its Member States.’⁵

There is a Council of Ministers, consisting of the ministers of foreign affairs, defence, economic relations with foreign states, internal economic affairs, and human and minority rights. All other areas of jurisdiction presumably rest with the constituent states, Serbia and Montenegro. The ministers of defence and of foreign affairs are supposed to be from different member states, although, in the event, Montenegro was persuaded to accept Serbs for both portfolios. The same rule was to apply to the deputy ministers (presumably different from their ministers, as was the case in former Yugoslavia, where deputy ministers had to be abruptly shifted if a new minister happened

4 ‘Proposal for the Wording of the Constitutional Charter,’ Preamble, available at <http://www.legislationline.org/data/Documents/ConstitutionofSerbiaandMontenegro2003.htm>

5 *Ibid*, article III.

to be from the same republic). The ministers of defence and foreign affairs will switch positions with their deputies after two years.

The Assembly of Serbia and Montenegro is unicameral, consisting of 91 members from Serbia and 35 from Montenegro. It will make decisions by majority vote 'provided that the decision is also voted for by the majority of the total number of Members from each Member State.'⁶ In other words, a 'double majority' will be required, as was the case in pre-confederation Canada.

The question of the assembly's composition held up agreement on the Constitutional Charter for months. Koštunica insisted that they be chosen by direct election. The Serbian prime minister, Zoran Djindjić, was of the same view, but less strongly. Djukanović was adamant that the deputies be chosen by the assemblies of the two member states. What he obviously feared was that a reversal of his electoral fortunes could create an opposition majority in the Montenegrin delegation to the new assembly for the common state. This would, in effect, deprive him of the veto over legislation.

A compromise, which had been on the table in one form or another since October 2002, was eventually reached. The two assemblies would choose deputies for the joint assembly, but their terms would be for only two years. Their successors would then be chosen by direct election.

The charter provides considerable latitude to the two member states in terms of their international activity. Each may have relations with those other states and international organizations that will accept sub-national representatives and open their own office. They may conclude international contracts and agreements that do not infringe the jurisdiction of the common state and are not contrary to the interests of the other member state.⁷

Montenegro originally had more adventurous demands – its own seat at the United Nations and other international organizations, or, failing that, the annual rotation of senior diplomatic posts between Serbs and Montenegrins. At one point, it was suggested that the foreign ministry should shuttle between Belgrade and Podgorica. These fanciful, or at least impractical, notions seem to have been dropped – no doubt at the insistence of those from the international community

⁶ *Ibid*, article XII.

⁷ *Ibid*, article I.

who were shepherding the negotiations. The question of 'parity' in the new state's diplomatic representation abroad is not addressed in the charter, but was rather to be the subject of a separate agreement. The parcelling out of diplomatic appointments is still a matter of contentious discussion.

Another potentially troubling area is the financing of the new common state. One of the fatal flaws in the constitution of the Socialist Federal Republic of Yugoslavia was that the federal government depended on the constituent republics for the bulk of its revenue. Only a dedicated tax for the Yugoslav National Army and customs duties were collected federally. It seems that the new 'federal' (or confederal) level of government will have no independent sources of revenue at all. Article XII of the Constitutional Charter provides that the assembly shall pass laws on the necessary revenues and expenditures for (the union of) Serbia and Montenegro to carry out its functions. Those laws will be passed 'on the proposal of the competent authorities of the Member States and of the Council of Ministers.'

Agreement on the text of the draft constitution charter is clearly not the end of the story. It has many ingenious characteristics. So too did the governmental structure of former Yugoslavia. Many of them have carried over into its successor states, but their effectiveness has rarely matched their ingenuity. The requirement in both Serbia and Montenegro for a 50 per cent voter turn out to make a presidential election valid is a case in point. The principle is impeccably democratic, but in practice made it impossible to elect a president in either state.

It has since been dropped in both Serbia and Montenegro, and Filip Vujanović, the speaker of the Montenegrin assembly, was finally elected as president. He had won over 80 per cent of the vote in the previous elections, but the turn-out was less than 50 per cent. All candidates supported independence, the major (pro-federation) opposition party having failed to agree upon a candidate. The presidential elections, therefore, gave no indication at all of the current level of support for independence – still probably hovering slightly below 50 per cent.

New elections for president have yet to be called in Serbia. Koštunica carried the second round of the last elections in December 2002 with a convincing majority, but not enough voters had been convinced to turn up at the polls. It is widely believed that Djindjić helped engineer the failure of these elections to ensure that Koštunica would no longer be president of the Federal Republic of Yugoslavia (with

whatever prestige might go with that title) when – and if – direct elections were held again. It is likely that changes to the Serbian constitution, which must be made to bring it into conformity with the Constitutional Charter, will include a provision to have Serbia's president chosen by the assembly rather than by direct elections. The assembly, still more or less controlled by Djindjić's coalition, would almost certainly not choose Koštunica.

Perhaps the most important part of the charter – if only because agreement on working towards a common state in the first place could not have been achieved without it – is the 'escape clause.' Article XV provides that, after three years (from precisely when is not clear), either Serbia or Montenegro can hold a referendum on leaving the union. The referendum law must take recognized democratic standards into account, and 'international documents' pertaining to the present Federal Republic of Yugoslavia would continue to apply to Serbia, 'as the successor.' United Nations Security Council resolution 1244, setting up the United Nations administration in Kosovo, is specifically cited. In other words, the status of Kosovo will remain whatever it is now or has become.

POLITICAL NOISES OFF-STAGE

Constitutions are not made in a vacuum, and formulation of the draft Constitutional Charter for Serbia and Montenegro took place in a highly volatile political situation in both states. This certainly complicated negotiations or, at the very least, distracted the negotiators.

In Serbia, the background included a continuing power struggle between Koštunica and Djindjić. They were allies in the campaign to defeat Milošević, but each hoped to consign the other to political oblivion.

These hopes seem very much alive in the post-Djindjić coalition. For a long time, Koštunica was, by a considerable margin, the most popular politician in Serbia. His popularity seems to be waning, and his proposal in the wake of the assassination to form a government of national unity did nothing to enhance it. In principle, the idea was perhaps not unreasonable, but it would have meant including the remnants of Milošević's loyalists, the ultra-nationalist Serbian Radical party and various other extremists. The government immediately rejected it. Koštunica did not offer to broaden the coalition by rejoining it, and has been free with his criticisms of the new government –

including objections to the state of emergency declared immediately following the assassination (and lifted on 22 April), with its various restrictions of civil rights.

In fact, the state of emergency and the concomitant drive against Serbian organized crime – elements of which were involved in the assassination – have been enormously popular. The lifting of the state of emergency (a week earlier than foreseen) will have defused objections, such as those of Koštunica, to its existence in principle or to any excesses in practice that might have developed had it remained in force longer.

The government has survived the shock of the assassination with surprising aplomb, and has taken the opportunity to take actions, such as the drive against organized crime, which were long overdue. The process of forming the new common state of Serbia and Montenegro has gone ahead quietly but steadily, and everything should be in place by the autumn of 2003. That is not the end of the story, of course, since the union can still be reconsidered after three years. Montenegro's President Vujanović has said that he will work in good faith to make a success out of the new constitutional arrangements, but that even if it is a success he will insist on a referendum so that Montenegrins can decide whether they want to be part of any kind of union with Serbia. The EU may, of course, still insist that negotiations for membership (which will certainly not have been completed) can only be held with a single state, and so force the common state to continue. On the other hand, the EU may conclude, after three years, that negotiating with Serbia and Montenegro as separate states is not so unthinkable after all. It might even be simpler.

The uncertainty and ambiguity of the constitutional gyrations in all that is left of former Yugoslavia drives people to throw up their hands in despair of the Balkans. The people of the region view it with more equanimity, perhaps because it surprises them less. In any case, despite all the delays, devious political machinations, and even the assassination of Serbia's prime minister, there has been progress in developing a functional democracy for Serbia and Montenegro. Most important, of course, the process of abolishing and replacing the Federal Republic of Yugoslavia has been entirely peaceful and is likely to remain so. This in itself is no mean accomplishment.